

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

KAILA MINAYA MARCANO PEÑA,

Defendant.

20-CR-59-2 (VSB)

ORDER

The Honorable Vernon S. Broderick, District Judge:

On September 25, 2023, the defendant was sentenced principally to a term of imprisonment of 42 months. (*See* Doc. 176.)

On April 19, 2024, the defendant filed a motion requesting that this court consider a sentence reduction pursuant to Amendment 821 to the Sentencing Guideline amendment which went into effect on November 1, 2023 and applies retroactively. (Doc. 183.) The United States Probation Department has issued a report indicating that the defendant is not eligible for a sentence reduction. (Sealed Doc. 184.)

The Court has considered the record in this case and the additional submissions of the defendant, (Docs. 185–87, 191), and the Government, (Doc. 192), on this motion.

The defendant is ineligible for a reduction under Amendment 821. While the defendant is eligible for the zero-point offender Guidelines recalculation, *see* U.S.S.G. §§ 1B1.10, 4C1.1, her original sentence of 42 months is below the low end of the amended Guidelines range, 87 months. Thus, the amendment “does not have the effect of lowering the defendant’s applicable guidelines range,” and Marcano Peña is precluded from a sentence reduction. U.S.S.G. § 1B1.10(a)(2).

Accordingly, it is hereby:

ORDERED that the motion for a sentence reduction is DENIED.

The Clerk of Court is respectfully directed to terminate the pending motions at Docs. 183 and 186.

SO ORDERED.

A handwritten signature in black ink, reading "Vernon Broderick", written over a horizontal line.

Hon. Vernon S. Broderick
United States District Judge

Dated: October 25, 2024
New York, New York